

Attachment 1



Town of **LYNNFIELD**

ARTHUR J. BOURQUE III, Chairman
ROBERT P. MacKENDRICK, Selectman
AL MERRITT, Selectman

WILLIAM J. GUSTUS
Town Administrator

BOARD OF SELECTMEN

February 27, 2012

His Excellency Deval L. Patrick
Governor of Massachusetts
Room 280
State House
Boston, Massachusetts 02133

RE: Municipal Unemployment Compensation Expense

Dear Governor Patrick,

We are writing to ask your assistance in addressing some unfinished business with respect to your efforts at municipal finance reform. We are all grateful for your recent efforts in providing municipalities with additional tools to raise revenue and the recently passed health insurance and pension reforms that will save cities and towns tens of millions of dollars this year alone and stabilize our benefit costs well into the future. However, some remaining municipal liabilities in the area of unemployment compensation seem unjust to us. We believe that, in general, unemployment compensation was set up to provide people with "temporary financial assistance after having lost a job through no fault of their own."

We regularly have to review unemployment claims made against our cities and towns. Recently, one of us was presented with a case that just seems to defy the laws of sanity. To our great surprise, we have come to learn through communication with each other that, this case is just the tip of a very large iceberg of unintended consequences leading to, in our view, the unjust enrichment of many individuals at the expense of their former and current municipal employers.

Unemployment compensation payments are a direct expense to municipalities. Given the relatively stable nature of public employment and the strong due process policies found in most municipalities, layoffs and wrongful terminations are unusual. Therefore, most communities choose to self-fund unemployment and, consequently, these types of cases are killing us financially. Herein-below are outlined a number of specific cases which highlight the types of situations we have faced in the recent past and continue to face on a regular basis.

In one community, a retired police officer is collecting unemployment under what we would consider to be an unfair application of the unemployment compensation law. This individual enjoys a healthy town-funded pension, and he is allowed to work details for the town to supplement his public pension by about \$25K. Due to state law, he is restricted to this amount of

extra income without having his pension reduced by earnings beyond this statutory limit. The retirement system requires that we notify him when he has reached his outside-income limit and that thereafter, for the remainder of the calendar year, he will be subject to a dollar-for-dollar reduction to his pension if he continues to work. So, what does he do? He stops working and files an unemployment claim and surprisingly, his claim is approved. The town asked for a hearing to dispute his claim and after this hearing, the hearing officer found that, because the law says he can't keep working for the town, that this is a loss of a job through no fault of his own and affirmed that he is entitled to unemployment compensation at the town's expense. Then to make matters even worse, the retired officer starts taking details again in January, since the new year has begun and he can earn another \$25k in details beyond his \$37k/yr pension, but his unemployment claim remains open and for every week in which his detail earnings are less than his weekly unemployment benefit, the town has to pay him the difference as well.

Upon posting this on a list-serve we subscribe to made up of municipal finance officers across the state, we learned of many other questionable cases. We have heard that in many communities, when public safety employees reach the mandatory retirement age of 65 and retire on healthy pensions, many apply for unemployment and collect not only their full pension but also 99 weeks of at least partial unemployment benefits at the expense of the municipality. Once again the law caused the loss of their job. This places communities in an impossible situation. On the one hand, state retirement officials tell us we can't continue to employ these individuals but, since they are now unemployed, we have to pay them unemployment compensation. As you know, most public safety officers who must retire at age 65, retire with pensions equal to 80% of what they were earning when they were actually working. In short, for this group, it is more lucrative to be retired. Is this really the "temporary financial assistance" contemplated by the authors of our unemployment compensation laws?

These inequities are not limited to public safety workers. We also learned that many school teachers avail themselves of unemployment compensation in ways we believe were not intended. As we understand it, teachers are given one-year contracts each September which run through the end of the following August. According to virtually every collective bargaining agreement and state law, if an individual teacher's contract is not going to be renewed, they must be notified on or before May 15 of any given year. Given the financial uncertainty over the past few years and the fact that municipal budgets are often not settled by May 15, many school districts must send out these notices to a number of teachers, just to protect themselves against the effects of budget cutbacks. However, once a teacher gets one of these notices, and despite the fact that the municipality must continue to pay them through the end of August and continue to provide health coverage, some of these teachers file a claim for unemployment. They then collect all summer and, after the budget is set, most of them are rehired for the next school year. They can do this because they have the option to take a lump-sum salary payment in June, for the whole summer. They then go down to the unemployment office and truthfully say that they received a notice that their contract will not be renewed and that they won't be seeing any more checks. So, for the entire summer, the town will have paid their salary and paid them unemployment as well.

There is another little-known way that some retired teachers are able to collect unemployment. It is possible, and it actually occurs pretty regularly, where a teacher can retire and, if they teach in an area of critical need, may return to teach after they retire at full pay without any income

limitations or pension offsets. While this may be necessary in some instances, what seems to us to be unnecessary is that, after the school district finally finds someone to fill the position, someone who is not retired and collecting a full pension and a full salary, the retiree is now eligible to collect unemployment for losing their job as a critical employee.

There is also a class of school bus drivers that regularly collect unemployment for the whole summer, all school vacations, professional development days when the schools are closed, and even the day after Thanksgiving. These school bus drivers are paid out of the town side of the budget instead of the school budget. If they were paid by the school department, they would be ineligible for unemployment but, since they work for the town, they may collect and, do collect unemployment compensation. In our view, a school bus driver is a school bus driver and their ability to collect unemployment should not be based on whether they are paid out of the school budget or the town budget.

Many communities have been charged for unemployment compensation paid to call firefighters who have lost their full-time jobs. This is a considerable expense to the cities and towns that have call or combination fire departments. Call firefighters work for the town on an as-needed basis. They usually have full-time jobs as well. Due to a quirk in the unemployment law, when call firefighters lose their full-time jobs and file for unemployment, the municipality gets billed for a portion of their unemployment compensation, even though they continue to perform and get paid for their call firefighter work. In a similar case, we have heard of a community that hired a number of unemployed people for part-time jobs in an effort to help some local residents ride out the recession. When their prior employers failed, the town ended up paying their unemployment as well, even as they continued to work part-time for the community.

The frustration of local finance officials regarding all of this is real, and we respectfully request your assistance in addressing these concerns. In one last example, we offer the case of a community that decided to hire a reserve police officer as a full-time patrolman. After he was hired, they paid him as a full-time officer and then paid for his training and his full salary as a recruit at the police academy for probably close to six months. Unfortunately for the town, their investment was wasted, since the officer did not receive a passing grade from the academy. This individual was then returned to reserve officer status. He then applied for, and was granted, unemployment benefits because he was deemed to be "underemployed."

We stand ready to assist you in any way possible to provide documentation of these cases and to work with you to find sensible solutions to these issues. Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Bill Gustus", written over a circular stamp or seal.

Bill Gustus
Lynnfield Town Administrator

Listed below are a number of local officials who have indicated support for these reforms and have authorized me to add their names to this letter.

Kathleen Benevento
Director of Finance
Town of Boxford

Thomas Moses
Finance Director
City of Lowell

Carl Valente
Town Manager
Town of Lexington

Linda D. Carr, CGA
Town Accountant
Town of Southwick

Mariellen Murphy
Finance Director
Town of Dedham

David Withrow
Finance Director
Town of Orleans

Robin Neal Craver
Town Administrator
Town of Charlton

Kevin Paicos
Town Manager
Town of Foxborough

Susan Wright
Finance Director
City of Northampton

Mary C. Day
Treasurer/Collector
Town of Lincoln

Melanie Phillips, CMMT
Finance Director
Town of Medway

Joanne DeGray
Town Accountant
Town of Wilbraham

Sandy Pooler
Finance Director
Town of Amherst

James Del Signore
Director of Finance
City of Worcester

Patricia Schaffer
Director of Finance
City of Peabody

William Keegan
Town Administrator
Town of Dedham

Randy Scollins
Finance Director
Town of Foxborough

Suzanne Kennedy
Town Administrator
Town of Medway

Dennis P. Sheehan
Asst. Treasurer-Collector
Town of Andover

Elaine Markham
Town Accountant
Town of Sturbridge

Sheryl Strother
Finance Director
Town of Wellesley

Susan Milne
Director of Finance
Town of Yarmouth

Brian Turbitt
Finance Director
Town of Millbury

Attachment 2

HOUSE No. 3980

Message from His Excellency the Governor recommending legislation relative to
Disqualifying Certain Persons Subject to G.L. c. 32, § 91(b) from Receiving Unemployment
Insurance Benefits. March 7, 2012.

The Commonwealth of Massachusetts



DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

EXECUTIVE DEPARTMENT
STATE HOUSE • BOSTON 02133
(617) 725-4000

March 7, 2012.

To the Honorable Senate and House of Representatives:

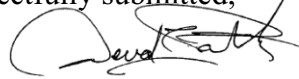
I am filing for your consideration a bill entitled “An Act Disqualifying Certain Persons Subject to G.L. c. 32, § 91(b) from Receiving Unemployment Insurance Benefits.”

This legislation addresses certain individuals who, while collecting a public pension, return to work for a public employer and then apply for and collect unemployment benefits when that employment ends. Public pensioners who return to work for a public employer are permitted by statute to work up to 960 hours per calendar year. They cannot, however, earn more than the difference between the current salary for the position they retired from and the amount of their pension.

This legislation disqualifies those individuals from receiving unemployment benefits once they reach either the hourly or earnings limits. By doing so, it strengthens our unemployment system and strikes the right balance between the interests involved: allowing public employers to utilize retired employees without incurring UI liability – so long as the employee works the full 960 hours or reaches the earnings cap -- and allowing employees to continue to serve the public.

I share your commitment to ensuring that the unemployment system helps the people it was intended to, and rooting out all fraud and abuse. This legislation, coupled with other actions the administration is taking, is an important first step to achieving our collective goals. I urge your prompt and favorable consideration of this bill.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Deval Patrick", written over a horizontal line.

DEVAL L. PATRICK,
Governor.

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve.

AN ACT DISQUALIFYING CERTAIN PERSONS SUBJECT TO G.L. C. 32, § 91(B) FROM RECEIVING UNEMPLOYMENT INSURANCE BENEFITS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the
authority of the same, as follows:*

- 1 SECTION 1. Section 25 of chapter 151A of the General Laws, as appearing in the 2010 Official
- 2 Edition, is amended by inserting after subsection (j) the following new subsection (k):
- 3 (k) Any week in which the individual is barred from working for, or being paid by, the employing unit
- 4 by reason of the provisions of section 91(b) of chapter 32.

Attachment 3



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT

DEVAL L. PATRICK
GOVERNOR

JOANNE F. GOLDSTEIN
SECRETARY

TIMOTHY P. MURRAY
LT. GOVERNOR

Dear City/Town Official:

As you may know, a number of cities and towns wrote to Governor Patrick last week expressing frustration about Unemployment Insurance (UI) payments to certain categories of public employees under varying circumstances.

The Patrick-Murray Administration shares your concern when claimants improperly receive UI benefits and recognizes the burden this places on municipalities and the taxpayers.

My office is committed to addressing these issues. We are reaching out to all 351 municipalities in the Commonwealth inviting you to send all cases on these issues directly to my office. If possible, I would request that this information be provided by March 16th. We will, of course, review any materials regardless of when they are forwarded, however, by establishing a target date we will be better able to broadly assess the situation sooner. I am scheduling a follow-up meeting with municipalities for Tuesday, March 20th (time and location TBD).

The Department of Unemployment Assistance is conducting an analysis of cases on the following topics:

- School department employees (i.e. teachers, cafeteria workers and bus drivers);
- Employees who received UI benefits from a municipal account while on a pension from that municipality;
- Call fire fighters who received UI benefits;
- Members appointed to a board or commission appointees who received UI benefits as a result of having a term expire or not being re-appointed;

In your response please provide us with information related to these topics so we can coordinate our analysis with yours.

This information can either be mailed, e-mailed or faxed to:

Municipal Feedback
Executive Office of Labor and Workforce Development
One Ashburton Place, Suite 2112
Boston, MA 02108
E-mail: municipalfeedback@state.ma.us
Fax: 617-727-1090

Although we cannot publicly discuss particular cases except with the parties to the actual case, we can discuss issues in the aggregate.

If you have any questions or would like to discuss these matters with me, please call me at 617-626-7100. EOLWD looks forward to a meaningful and strategic partnership with concerned municipalities and the MMA on these very important issues.

Sincerely,

A handwritten signature in cursive script that reads "Joanne F. Goldstein".

Joanne F. Goldstein

cc: Governor Deval Patrick
Mass Municipal Association

Attachment 4



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT

DEVAL L. PATRICK
GOVERNOR

JOANNE F. GOLDSTEIN
SECRETARY

TIMOTHY P. MURRAY
LT. GOVERNOR

Dear City/ Town Official:

I am writing to share additional information on the meeting I mentioned in my recent letter to you. The meeting will take place on:

**March 20th from 2:30PM to 4PM
at the Rabb Lecture Hall in the Boston Public Library.**

We will discuss the following topics:

- Recent and proposed actions taken by the Administration, including filing legislation;
- Department of Unemployment Assistance's (DUA) analysis of trends and practices dealing with the topics originally highlighted in the letter municipalities sent to Governor Patrick;
- DUA Employer Best Practices;
- Unemployment Insurance integrity efforts and activities at DUA;
- Your concerns and suggestions for improving the Unemployment Insurance system.

The meeting will be open to city and town representatives. Following the meeting, which is closed to press, Secretary of Labor & Workforce Development, Joanne F. Goldstein and Acting Director of the Department of Unemployment Assistance, Michelle Amante will be available to the media. Any city or town representative that would like to stay and participate is encouraged to do so.

If you plan to attend, kindly R.S.V.P to this email or by calling Christina Wescott at 617-626-7114.

I hope that you will consider joining us on the 20th as your meaningful and constructive participation is valuable for improving the UI system.

Sincerely,

A handwritten signature in cursive script that reads "Joanne F. Goldstein".

Joanne F. Goldstein

ONE ASHBURTON PLACE • SUITE 2112 • BOSTON, MA 02108
TEL: 617-626-7100 • TTY: 617-727-4404 • FAX: 617-727-1090
www.mass.gov/eolwd

Attachment 5



Commonwealth of Massachusetts Executive Office of Labor and Workforce Development

Participating in the Unemployment Insurance Program

Deval L. Patrick, Governor
Timothy P. Murray, Lt. Governor
Joanne F. Goldstein, Secretary



Unemployment Insurance Background

- On August 14, 1935 President Roosevelt signed the Social Security Act, which laid the foundation for the national Unemployment Insurance (UI) program.
- UI is the primary safety net for jobless workers in MA and across the country.
- The UI program provides temporary income protection for workers who have lost their jobs and are:
 - Able to work,
 - Available for work, and
 - Actively seeking employment.
- In all states, the system is a federal-state joint venture. Employers either pay premiums in the form of state employment taxes, or self-insure, reimbursing the state dollar-for-dollar for benefits paid.
- UI is one of the most effective economic stabilizers, having a beneficial impact on individual workers and the communities where they live. The Urban Institute estimates that for every \$1 distributed in unemployment compensation, \$2 of economic activity is generated.



Employer Responsibilities

- Respond timely to requests for wage and separation information (1062/1074 forms)
- Respond timely to fact finding requests and requests for additional information
- Review monthly charges and formally request a review if there are inaccuracies
- Report employment and wage detail quarterly
- Report fraud
- Participate in the Hearings process
- Provide oversight to Third Party Administrators



Wage and Separation Information

- When a claimant files an unemployment claim, all employers within the last 15 months will receive a request for wage and separation information (Form 1062).
- For the employer to maintain its rights as an interested party to the claim, this form must be postmarked within 10 days of the mail date of the form.
- This form verifies or provides wage information and enables the employer to state the reason for separation.
- In many cases this information will trigger the creation of an issue or an additional investigation.
- In cases where a claimant has separated from a job during his/her benefit year, we will send a wage and separation request (Form 1074) to the separating employer.
 - Because a claimant can earn partial wages while being on an active unemployment claim, it is important that you complete this information even if you are currently paying wages to the claimant.



Fact Finding Requests

- When DUA is investigating a separation or other eligibility issue, we will ask you to participate in the process by providing an official statement either by mail or via a telephone interview.
- It is critical that you respond to this request timely so that you have an opportunity to present your information to DUA.
- If you do not provide information timely, DUA must make a decision based upon the information provided by the claimant.



Review Monthly Charges

- You will receive a statement for each month that benefits are charged to your account.
- This statement will list each claimant and the total charges per claimant, per week, for that specific month.
- You have the right to request a review of charges that are inaccurate within 30 days of the mail date of the reimbursable statement.



Employment and Wage Detail

- Every employer is required to report quarterly employment and wage detail information to DUA (G. L. c. 151A, § 14P).
- These reports are used to verify wage information for claims and process claims in a timely manner.



Report Fraud

- We welcome information from concerned individuals and employers who have credible information about suspected fraud.
- You can report cases of suspected fraud through one of the following methods:
 - Calling the Fraud Hotline — 1-800-354-9927
 - Emailing uifraud@detma.org
 - Writing to the U.I. Program Integrity Department, P.O. Box 8610, Boston, MA 02114
 - Faxing information to 617-723-5312
- We will investigate all fraud claims; however, not every case will result in a fraud determination.
- Because of the confidentiality of claims, we cannot report the outcome of the fraud investigation unless you are an interested party on the claim.



Participate in Hearings Process

- It is critical that employers participate in the hearings process. Hearings are “de novo,” which means that either party may present new evidence.
- A hearing is the employer’s opportunity to provide key information and rebut the claimant’s evidence.



Oversight of Third Party Administrators

- Third Party Administrators (TPAs) provide valuable services to municipalities by assisting them with their employment and wage detail reports as well as management of their claims.
- While TPAs provide these services on behalf of municipalities, it is the municipality that is ultimately responsible for the timeliness of requests and the quality of wage and separation information.
- Municipalities must actively manage their TPAs to ensure that information requests are returned timely and sufficient information is provided to DUA in order to avoid inaccurate charges.



Combating Fraud

- Protecting the integrity of the UI program and trust fund is a responsibility that DUA takes seriously.
- In addition to welcoming external information, we seek information from our DUA departments (Revenue, Hearings, Board of Review) as well as external agencies such as courts and police departments.
- We regularly perform cross-matches against external databases such as the National New Hire Directory and Department of Homeland Security to detect claimants who may be fraudulently collecting.
- DUA has established a Cross-Agency Task Force to proactively identify additional ways in which our Agency can prevent improper benefit payments and detect fraud.



Recovering Overpayments

- An “overpayment” is a payment that was made for a week that was ultimately determined ineligible or for an amount in excess of an adjusted weekly benefit payment.
- MA has the lowest overpayment rate in the nation. We continue to take proactive measures to reduce the amount of overpayments that occur.
- DUA utilizes multiple methods to recover overpayments:
 - Offsets of future benefit payments
 - Department of Revenue tax intercept
 - Monthly billing process
 - Criminal prosecution



Appealing a Determination – Hearings Level

- Eligibility, monetary, and separation determinations are provided to employers and claimants via mail and can be appealed to the DUA Hearings Department.
- Employers and claimants must appeal a determination within 10 days of the mail date unless there is a compelling reason for the delay.
- Employers who fail to provide wage and separation information timely will lose their rights as a party to the appeal.



Appealing a Determination – BOR and District Court

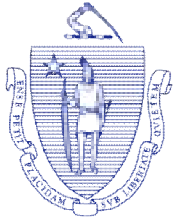
- Any party dissatisfied with the Hearings decision may appeal to the Board of Review within 30 days of the date the decision is mailed.
- The Board has 21 days to decide whether to hear the appeal.
- Any party aggrieved by a Board decision, including a decision not to hear an appeal of the Hearings decision, may appeal to District Court within 30 days of the mailing date of the Board decision.



Tips to Help Manage UI Costs

- Forecast and budget for UI payments based upon trends and projections.
- Monitor your UI online account summary statement and monthly statements of benefits charged for accuracy.
- Call back separated workers if work becomes available.
- Report to DUA if one of your former employees returns to work.
- Document the circumstances surrounding each separation for reasons other than lack of work.
- Keep detailed records and respond to all requests for information timely.

Attachment 6



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT
DEPARTMENT OF UNEMPLOYMENT ASSISTANCE

DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LT. GOVERNOR

JOANNE F. GOLDSTEIN
SECRETARY

MICHELLE R. AMANTE
ACTING DIRECTOR

March 20, 2012

ON-CALL FIREFIGHTERS AND EMERGENCY MEDICAL TECHNICIANS

Cities and towns are exempt from charges and paying Unemployment Insurance (UI) benefits for individuals working for them as on-call firefighters or on-call emergency medical technicians (EMTs), provided they properly and timely complete the required forms.

“On-call” means there is an agreement between the employee and employer that the employee will work on an as-needed basis with no set schedule of hours. Pertaining to on-call firefighters and on-call EMTs, in accordance with Chapter 151A, § 6A(5), wages earned by those working in this capacity on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency, and who are paid solely on a per incident basis, are exempt and cannot be included in determining an employee’s unemployment insurance benefit rate.

There are three critical actions a municipality must take to receive the exemption and to preserve its appeal rights on this claim as required by G.L. c. 151A, § 38(a).

Indicate the employee’s employment status as “still employed” and provide wage information on the Wage and Separation Information form (Form 1062) as requested.

Write in the comments section on the form that the employee is an on-call fire fighter or an on-call EMT paid per call or event (whether on a flat rate or hourly basis).

Return the form within the ten days as prescribed by law to the Department of Unemployment Assistance (DUA).

DUA will process the returned Wage and Separation Information form. Checking the box next to “Still employed” will prompt a review of the claim and, once verified, these wages will not be included in determining the wage base of the claimant. If benefits are awarded and the municipality believes the determination was erroneous, the municipality must appeal the determination within the mandated time-frame.

During the benefit year, a claimant may need to “reopen” his/her claim due to a benefit year separation. In this circumstance the municipality will need to recertify that the claimant is still working as an on-call firefighter or EMT. It is important that you again return the wage and separation form sent to you to ensure that these wages will not be included and so you can preserve your appeal rights.

Attachment 7



Municipality Statistics – Calendar Year 2011

- 21,468 claims were filed against municipalities. Of those, only 11,236 had charges applied.
- In 7338 cases, out of 21,468 claims, (34%) municipal employers either did not respond or responded late to the 1062 (Request for Wage and Separation Information).

Hearings Review

- There were 769 hearings decisions involving a municipality in 2011. This represented 3.5% of the total case load (the vast majority of cases involve private employers).*
- There were 190 cases in which the employer did not participate in the hearing (25%). Of these cases the claimant prevailed 59% of the time and employers still prevailed 41%.
- Overall claimants were the prevailing party in 56% of the cases.
- The most common issues were Reasonable Assurance (28.6%), Voluntary Quit (27.4%), and Discharge (23.5%).
- 167 cases were appealed to the BOR. Of these: 122 were affirmed; 22 decisions were reversed; 14 are pending; 4 were remanded, 3 were dismissed and 2 were modified.

*Note: The 769 figure represents some claims that were filed in 2010. A portion of claims filed in 2011 will have hearings conducted in 2012. However this number has been consistent during the recessionary years and provides a snapshot of our case load. Only 3.6% of claims filed against municipalities were appealed.

Attachment 8



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT

DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LT. GOVERNOR

JOANNE F. GOLDSTEIN
SECRETARY

March 29, 2012

Dear City/ Town Official:

Thank you for continuing to participate in the dialogue over municipal unemployment issues.

In addition to requesting materials from you on cases, concerns and suggestions, we held a meeting with all interested municipalities on March 20th, have filed legislation to address the post retirement "960 employees", and established a Task Force to consider and make recommendations of other issues you brought to our attention.

We have established a dedicated phone line for municipalities at the Department of Unemployment Assistance. That number is 617-626-6262. For your convenience, we have also attached a telephone directory which lists other important telephone numbers you may need to access in the future.

We were also able to clarify the situations under which cities and towns are exempt from responsibility for UI benefits for call firefighters and EMTs. The attached guidance letter provides the details.

I have attached the PowerPoint presentation which Michelle Amante, DUA Acting Director, delivered at the March 20th meeting. I think you will find this useful.

As we approach the spring and summer when seasonal employees are often hired, I urge you to review the section on seasonal employment in the PowerPoint which describes how to exempt these employees from UI eligibility.

We are continuing to review all cases you have brought to our attention and will get back to you as we complete the reviews. I would note, however, that the review is separate from the UI process and it is critical that you continue to respond timely to all requests for wage and separation information via the proper forms and existing UI processes in order to maintain your rights.

Thank you again for partnering with EOLWD and DUA to dialogue and address the outstanding concerns about the system.

Sincerely,

A handwritten signature in cursive script that reads "Joanne F. Goldstein".

Joanne F. Goldstein

Attachment 9



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT

DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LT. GOVERNOR

JOANNE F. GOLDSTEIN
SECRETARY

May 2, 2012

Dear City/Town Official:

I write to update you on recent developments regarding Unemployment Insurance (UI) and municipalities and to request your assistance in compiling data that will better help us address some of the issues that you have raised.

Since I last communicated with you, the following has occurred:

- The Department of Unemployment Assistance (DUA) established a dedicated telephone line for municipal officials with UI questions. That number is (617) 626-6262. Please feel free to use it as questions arise.
- Governor Patrick established a Task Force to look at many of the UI issues raised by municipalities. We held the first meeting on April 18th and had a productive discussion on many of the outstanding UI issues.
- On April 19th, the Massachusetts Joint Committee on Public Service held a public hearing on Governor Patrick's proposed legislation to restrict so-called "960-hour" employees from UI eligibility. (House Bill 3980, An Act Disqualifying Certain Persons Subject to G.L. c. 32, § 91(b) from Receiving Unemployment Insurance Benefits)

I also want to note that we are continuing to review all of the specific cases that were mentioned in your submissions and will respond to each municipality as soon as possible. Over 100 municipalities provided information on approximately 450 cases. DUA has assigned a team of subject matter experts to review these cases and determine the appropriate response. We appreciate your patience as we conduct that review.

One of the requests made at the Public Service Committee hearing was for concrete data on the number of public employee retirees who are actually collecting unemployment benefits.

DUA would like to be responsive to the Committee and is compiling data to respond to its requests. To be as definitive as possible, we are asking you to provide us with your

ONE ASHBURTON PLACE • SUITE 2112 • BOSTON, MA 02108
TEL: 617-626-7100 • TTY: 617-727-4404 • FAX: 617-727-1090
www.mass.gov/eolwd

data, to cross-reference our numbers. We will, of course, provide you with the aggregate results.

Specifically, at this time, we are looking at the following categories for the calendar years 2010 and 2011:

- The number of retirees receiving public pensions who have filed a claim and received UI benefits (from a municipality) after serving as a so-called 960-hour employee and reaching the hours or earning cap.
- The number of retirees who have filed a claim and received UI benefits (from a municipality) because they retired at a mandatory retirement age (primarily public safety employees).
- The number of teachers/administrators, receiving public pensions, who have filed a claim and received UI benefits (from a municipality) after returning to work as "critical needs" teachers. Please include information that would indicate whether the teacher/administrator completed a school year or was replaced during a school year.

It would be most helpful if you could return the enclosed questionnaire by Monday, May 14, 2012 so we can compile all of this information in a timely manner. In order to facilitate the collection of this data, we have enclosed a form to fill out and return to us.

Thank you for your continued participation and cooperation in our combined efforts to address the UI issues raised by and affecting municipalities.

Sincerely,

A handwritten signature in black ink that reads "Joanne F. Goldstein". The signature is written in a cursive, flowing style.

Joanne F. Goldstein

cc: Massachusetts Municipal Association
Municipal UI Task Force Members

Attachment 9A

Attachment 9A

QUESTIONNAIRE

Please return form by fax (617-727-8796) or electronically
(municipalfeedback@state.ma.us)

Name of Municipality:

Contact Info (name of person filling out questionnaire and how to reach):

1. 960-hour employees who received UI benefits after reaching 960 hours or the earnings cap in a calendar year. Please also include each employee's name, last four digits of their Social Security Number (SSN) and effective date of their claim

2010					
Name	Last 4 SSN	Contested? (Y/N)	Denied benefits?	If awarded benefits and municipality appealed, results of appeal	Any other information?

2011					
Name	Last 4 SSN	Contested? (Y/N)	Denied benefits?	If awarded benefits and municipality appealed, results of appeal	Any other information?

2. Employees who retired at age 65 (or another age, if mandatory) and then received UI benefits

2010					
Name	Last 4 SSN	Contested? (Y/N)	Denied benefits?	If awarded benefits and municipality appealed, results of appeal	Any other information?

2011					
Name	Last 4 SSN	Contested? (Y/N)	Denied benefits?	If awarded benefits and municipality appealed, results of appeal	Any other information?

3. Teachers/school administrators who retired and received a public pension; were rehired due to critical need; and then collected UI benefits:

2010						
Name	Last 4 SSN	Contested? (Y/N)	Denied benefits?	If awarded and appealed, results of appeal	How long did the critical need employee work until they were replaced?	Any other information?

2011						
Name	Last 4 SSN	Contested? (Y/N)	Denied benefits?	If awarded and appealed, results of appeal	How long did the critical need employee work until they were replaced?	Any other information?

Please return form by fax (617-727-8796) or electronically
[\(\[municipalfeedback@state.ma.us\]\(mailto:municipalfeedback@state.ma.us\)\)](mailto:municipalfeedback@state.ma.us)

Attachment 10

Municipal* UI Benefit Charges

	Reimbursable Charges	Contributory Charges	Total Charges	Average Total Unemployment Rates
2005	\$ 24,384,588.92	\$ 4,160,603.58	\$ 28,545,192.50	4.80%
2006	\$ 18,253,214.19	\$ 3,055,840.39	\$ 21,309,054.58	4.80%
2007	\$ 27,355,241.15	\$ 3,926,244.19	\$ 31,281,485.34	4.50%
2008	\$ 30,130,275.24	\$ 4,987,942.79	\$ 35,118,218.03	5.30%
2009	\$ 65,387,277.78	\$ 8,653,933.24	\$ 74,041,211.02	8.20%
2010	\$ 51,567,381.30	\$ 8,296,152.01	\$ 59,863,533.31	8.30%
2011	\$ 50,657,080.48	\$ 8,771,392.27	\$ 59,428,472.75	7.40%
2012 (through August)	\$ 26,524,387.29	\$ 5,491,764.03	\$ 32,016,151.32	6.40%

*Charges include those attributed to all local public employers, cities and towns, school districts, water districts and all other local public entities that hire employees and are under the UI system.

Attachment 11

Sample Governmental Tax Analysis

City A (population 28,000)				
	Reimbursable benefits paid	Contributions Owed If Rate Was Calculated	Contributions Owed If Paid at 1% New Gov. Employer Rate	Contributions Owed If Paid at 5.4% (Newly Rated Private Employer Rate)
2010	\$ 187,615.34	\$ 108,990.25 (.4% rate)	\$ 272,475.62	\$ 367,842.06
2011	\$ 173,745.40	\$ 120,207.62 (.4% rate)	\$ 300,519.04	\$ 405,700.70
TOTA	\$ 361,360.74	\$ 229,197.87	\$ 572,994.66	\$ 773,542.76

*Reimbursable benefits paid in 1999: \$29,546 / 2000: \$30,308 / 2001: \$62,983 / 2002: \$183,027 / 2003: \$193,136 / 2004: \$87,779 / 2005: \$65,306

City B (population 23,000)				
	Reimbursable benefits paid	Contributions Owed If Rate Was Calculated	Contributions Owed If Paid at 1% New Gov. Employer Rate	Contributions Owed If Paid at 5.4% (Newly Rated Private Employer Rate)
2010	\$ 102,147.94	\$ 136,695.02 (.3% rate)	\$ 455,650.06	\$ 565,833.28
2011	\$ 134,491.91	\$ 92,835.07 (.2% rate)	\$ 464,175.37	\$ 626,636.74
TOTA	\$ 236,639.85	\$ 229,530.09	\$ 919,825.42	\$ 1,192,470.01

*Reimbursable benefits paid in 1999: \$9,666 / 2000: \$12,770 / 2001: 10,414 / 2002: \$34,038 / 2003: \$66,367 / 2004: \$131,693 / 2005: \$47,608

City C (population 11,500)				
	Reimbursable benefits paid	Contributions Owed If Rate Was Calculated	Contributions Owed If Paid at 1% New Gov. Employer Rate	Contributions Owed If Paid at 5.4% (Newly Rated Private Employer Rate)
2010	\$ 58,393.80	\$ 72,310.36 (.3% rate)	\$ 241,034.53	\$ 325,396.48
2011	\$ 141,585.89	\$ 50,379.97 (.2% rate)	\$ 251,899.87	\$ 340,064.81
TOTA	\$ 199,979.69	\$ 122,690.33	\$ 492,934.41	\$ 665,461.29

*Reimbursable benefits paid in 1999: \$21,109 / 2000: \$34,534 / 2001: \$15,547 / 2002: \$35,642 / 2003: \$68,848 / 2004: 29,292 / 2005: \$43,582

Attachment 12

Pension Deduction Examples

1. Police officer retires at 65, with an annual salary of \$65,000. She retires after 30 years and receives 80% of her salary in pension. She returns to work part-time (20 hours per week) in a desk job at the station at \$25 per hour. Within her 44th week, she reaches her earnings cap and must stop working. She files for UI.

- Weekly Benefit Amount (WBA) = \$437
- Weekly Pension Amount = \$1000
- Pension Deduction = \$650 (1000 X 65%)
- **Benefit Payment = \$0 (\$437 - \$650 = -\$213)**

In this scenario, the claimant would not receive any UI benefits, because the amount of the deduction is greater than the claimant's WBA. Because there are no benefits paid, the employer would not be charged.

2. A firefighter is forced to retire at 65, with an annual salary of \$71,000. He receives 76% of his salary in pension. He files for UI.

- Weekly Benefit Amount (WBA) = \$674
- Weekly Pension Amount = \$1037.69
- Pension Deduction = \$674.49 (\$1036.92 X 65%)
- **Benefit Payment = \$0 (\$674 - \$674 = \$0)**

In this scenario, the claimant would not receive any UI benefits, because the amount of the deduction is the same as the claimant's WBA. Because there are no benefits paid, the employer would not be charged.

3. Teacher's Aid retires. At the time of his retirement, he is making \$35,000. He retires after 30 years and receives 80% of his salary in pension. The school district asks him to come back to work on a part-time basis (30 hours per week). He will be brought back at \$15 per hour. After 32 weeks, the Aid reaches the 960 hour cap.

- Weekly Benefit Amount (WBA) = \$280
- Weekly Pension Amount = \$538.46 (average amount in state)
- Pension Deduction = \$350 (538.46 X 65%)
- **Benefit Payment = \$0 (\$294 - \$350 = -\$56)**

In this scenario, the claimant would not receive any UI benefits, because the amount of the deduction is greater than the claimant's WBA. Because there are no benefits paid, the employer would not be charged.

4. An elevator constructor retires after working for 40 years at Company X. His salary was \$70,000 a year, and he will receive 80% of that amount in pension. Company X asks the constructor to come back to assist with proposal work for 20 hours a week at \$30 an hour. After 6 months, Company X is forced to lay off the employee due to a budget shortfall.

- Weekly Benefit Amount (WBA) = \$673
- Weekly Pension Amount = \$1076.92
- Pension Deduction = \$700 ($1076.92 \times 65\%$)
- **Benefit Payment = \$0 ($\$673 - \$700 = -\27)**

In this scenario, the claimant would not receive any UI benefits, because the amount of the deduction is greater than the claimant's WBA. Because there are no benefits paid, the employer would not be charged.

5. An Administrative Assistant worked her last 2 years for City B. Her previous 25 years were with City A. When she retires, her salary is \$25,000. City B asks her back for 20 hours a week at \$10 per hour. She reaches the earnings cap after 42 weeks.

- Weekly Benefit Amount (WBA) = \$170
- Weekly Pension Amount = \$384.62
- Pension Deduction = \$28.50 (This is equal to $2/27$ of the weekly pension amount, which is what Salem would have contributed.)
- **Benefit Payment = \$141.50 ($\$170 - \$28.50 = \141.50)**

In this scenario, Salem contributed $2/27$ of the total pension amount; therefore the equivalent deduction is taken off the claimant's WBA.

6. A teacher retires, but he is asked to return to the same school district in a critical needs capacity as the school is facing a teacher shortage. He will be paid a salary of \$60,000 per year (the same salary that he received before retiring). After 1 year his assignment is over, and he files for UI benefits.

- Weekly Benefit Amount (WBA) = \$576
- Weekly Pension Amount = \$923.08
- Pension Deduction = \$600 ($923.08 \times 65\%$)
- **Benefit Payment = \$0 (\$576 - \$600 = -\$24)**

In this scenario, the claimant would not receive any UI benefits, because the amount of the deduction is greater than the claimant's WBA. Because there are no benefits paid, the employer would not be charged.

7. A CFO retires from Company Y at a salary of \$150,000 per year. She receives 50% of her salary in pension. Company Y asks the employee to come back as an Advisor, full time at a rate of \$100 per hour. This work ends after 18 months, and the employee files for unemployment.

- Weekly Benefit Amount (WBA) = \$674
- Weekly Pension Amount = \$1442.31
- Pension Deduction = \$937.50 ($1442.31 \times 65\%$)
- **Benefit Payment = \$0 (\$674 - \$937.50 = -\$263.50)**

In this scenario, the claimant would not receive any UI benefits, because the amount of the deduction is greater than the claimant's WBA. Because there are no benefits paid, the employer would not be charged.

Attachment 13



THE 187TH GENERAL COURT OF
THE COMMONWEALTH OF MASSACHUSETTS

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PART I	ADMINISTRATION OF THE GOVERNMENT (Chapters 1 through 182)	PREV NEXT
TITLE XXI	LABOR AND INDUSTRIES	PREV NEXT
CHAPTER 151A	UNEMPLOYMENT INSURANCE	PREV NEXT
Section 28A	Employees of commonwealth, political subdivisions, or religious, charitable, educational, or other tax exempt organizations	PREV NEXT

Section 28A. Benefits based on service in employment as defined in subsections (a) and (d) of section four A shall be payable in the same amount, on the same terms and subject to the same conditions as benefits payable on the basis of other service subject to this chapter, except that:

(a) with respect to service performed in an instructional, research, or principal administrative capacity for an educational institution, benefits shall not be paid on the basis of such services for any week commencing during the period between two successive academic years or terms, or when an agreement provides instead for a similar period between two regular but not successive terms, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms;

(b) with respect to services performed in any other capacity for an educational institution, benefits shall not be paid on the basis of such services to any individual for any week commencing during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms; provided that, if such individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely because of a finding that such individual had reasonable assurance of performing services in the second of such academic years or terms;

(c) with respect to services described in subsections (a) and (b), benefits shall not be paid to any individual on the basis of such services for any week commencing during an established

and customary vacation period or holiday recess if such individual performs such services in

the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess;

(d) with respect to any services described in subsections (a) and (b) benefits shall not be paid as specified in subsections (a), (b), and (c) to any individual who performed such services in an educational institution while in the employ of an educational service agency, and for the purpose of this clause the term "educational service agency" means a governmental agency or governmental entity, including an educational collaborative board established by section four E of chapter forty, which is established and operated exclusively for the purpose of providing such services to one or more educational institutions.

Attachment 14

An Act relative to municipal unemployment insurance.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 29 of chapter 151A of the General Laws, as appearing in the 2010 Official Edition, is amended by inserting after subsection (d)(6) the following new subsection (d)(7):-

(7) Notwithstanding any of the foregoing provisions of this subsection, the amount of benefits otherwise payable to an individual for any week that begins in a period with respect to which such individual is receiving governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment from a defined benefit plan that is based on the previous work of such individual for the separating employer or for a base period employer shall be reduced by an amount equal to 65% of the amount of such payment that is reasonably attributable to such week; provided, however, that such reduction shall apply only when such separating or base period employer employed the individual for at least 75% of the individual's total length of service on which the defined benefit plan is based; and provided, further that such reduction shall apply only if, and to the extent, then consistent with section 3304(a)(15) of the Internal Revenue Code of 1954. Payments received under the Social Security Act shall not be subject to this paragraph.

SECTION 2. Section 28A of chapter 151A of the General Laws, as appearing in the 2010 Official Edition, is amended by inserting after subsection (d) the following new subsection (e):-

(e) with respect to any services described in subsections (a) and (b) that are provided to or on behalf of an educational institution, benefits shall not be paid to any individual under the same circumstances as described in subsections (a) through (c).

SECTION 3. Section 6A of chapter 151A of the General Laws, as appearing in the 2010 Official Edition, is amended by inserting after subsection (6) the following new subsection (7):-

(7) an election official or election worker if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than \$1,000.

SECTION 4. Section 1 of chapter 62D of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting, after line 55, the following definition:-

“Federal tax refund payment”, any overpayment of Federal taxes to be refunded to the person making the overpayment after the Internal Revenue Service makes the appropriate credits as provided in 26 U.S.C. § 6402(a) and 26 CFR § 6402-3(a)(6)(i) for any liabilities for any Federal tax on the part of the person who made the overpayment.”

SECTION 5. Section 1 of chapter 151A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, between lines 313 and 314, the words “[There is no subsection (v).]”, and inserting in place thereof, the following subsection:-

(v) “Unemployment compensation debt”, an amount owed to the Department as a result of (1) an erroneous payment of benefits as described in section 69 of this chapter, also referred to as an overpayment; (2) an uncollected contribution to the Unemployment Compensation Fund, for which the Director has determined an individual to be liable, along with any penalties and interest on such debt as determined under section 15 of this chapter; and (3) fees authorized under the Treasury Offset Program described in 26 U.S.C. § 6402(f)(5)(B), and 31 CFR § 285.8(h).

SECTION 6. Chapter 151A of the General Laws, as so appearing in the 2010 Official Edition, is hereby amended by inserting after Section 14P the following section:-

Section 14Q. Treasury Offset Program. The Director may enter into an agreement with the Secretary of the Department of Treasury, under the provisions of 26 U.S.C. § 6402(f) and 31 CFR § 285.8, to transmit valid, unpaid, and overdue unemployment compensation debts to the Financial Management Service, a bureau of the U.S. Department of the Treasury, for collection by offset of Federal tax refund payments through the Treasury Offset Program. If the Director chooses to participate in the Treasury Offset Program to recover unemployment compensation debt, the Director shall adhere to all rules, policies, and guidance as required by the U.S. Department of the Treasury and the U.S. Department of Labor in implementing and administering the program. The Director may promulgate such regulations as needed to implement this section.

SECTION 7. Section 15 of chapter 151A of the General Laws, as so appearing in the 2010 Official Edition, is hereby amended by inserting, at the end, the following new subsection (f):-

(f) If an assessment, or any administrative decision upon review thereof has become final and the contributions, payments in lieu of contributions, interest, or penalties thereby assessed remain unpaid, the Director may refer the unpaid and overdue amount to the Secretary of the Department of Treasury for collection under the provisions of 26 U.S.C. § 6402(f), the Treasury Offset Program, provided that all procedures for notice and opportunity to present evidence as required by 31 CFR § 285.8 have been followed.

SECTION 8. Section 53A of chapter 151A of the General Laws, as so appearing in the 2010 Official Edition, is hereby amended by striking “and” at the end of subsection (1), line 4, and inserting in place thereof the following subsection:-

(2) withdrawn for payment of fees authorized under the Treasury Offset Program described in section 14Q of this chapter and paid to the Financial Management Service, a bureau of the U.S. Department of the Treasury, and

SECTION 9. Said section 53A of chapter 151A of the General Laws, as so appearing in the 2010 Official Edition, is hereby further amended by renumbering the former subsection (2), beginning with the word “requisitioned” as:- (3)

SECTION 10. Section 69B of chapter 151A of the General Laws, as so appearing in the 2010 Official Edition, is hereby amended by inserting, before the first sentence in line 1, the following subsection heading:- (a)

SECTION 11. Said section 69B of chapter 151A of the General Laws, as so appearing in the 2010 Official Edition, is hereby further amended by inserting, at the end, the following subsection:-

(b) In addition to any other remedy provided by this chapter, the Director may request that the amount payable to the department by an individual resulting from an overpayment of unemployment benefits which has become final as specified in 430 CMR 6.12 be set off against any Federal tax refund payment owed such individual by the U.S. Department of Treasury, in accordance with the requirements of the Treasury Offset Program described in section 14Q of this chapter.